

DOCKET FILE COPY ORIGINAL

WINSTON & STRAWN

35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601-9703

200 PARK AVENUE
NEW YORK, NY 10166-4193

WILLIAM K. KEANE
(202) 371-5775

1400 L STREET, N.W.
WASHINGTON, D.C. 20005-3502

(202) 371-5700

FACSIMILE (202) 371-5950

June 11, 1996

6, RUE DU CIRQUE
75008 PARIS, FRANCE

SULAYMANIYAH CENTER
RIYADH 11495 SAUDI ARABIA

43, RUE DU RHONE
1204 GENEVA, SWITZERLAND

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Ex Parte Filing
PR Docket No. 93-144
GN Docket No. 93-252
PP Docket No. 93-253

Dear Mr. Caton:

International Taxicab and Livery Association ("ITLA") is the nonprofit association representing the interests of private sector providers of local public ground transportation systems (taxicab, limousine, van and minibus). The industry is made up of more than 15,000 companies that operate well over 200,000 vehicles, provide work for over 350,000 men and women, and transport 2 billion passengers per year. Our industry provides 20% of all public transit service in America. ITLA is designated by the FCC as the frequency coordinator for the Taxicab Radio Service.

ITLA is submitting this letter in order to apprise the Commission of ITLA's serious concerns regarding regulation of the 800 MHz band.

BACKGROUND

In its First Report and Order in this proceeding, the Commission determined to reclassify the General Category for SMR use only.^{1/} In related actions the agency has frozen the filing of new applications for the General Category. Moreover, in the Second Further Notice of

^{1/} First Report and Order, Eighth Report and Order and Second Further Notice of Proposed Rule Making, FCC 95-501, released December 15, 1995.

Mr. William F. Caton

June 11, 1996

Page 2

Proposed Rule Making, the agency tentatively concludes that the General Category should be converted to geographic area licensing; opines that most systems to be licensed in the Category would be Commercial Mobile Radio Service providers; and suggests the possibility of evicting incumbent, private General Category licensees.

DISCUSSION

ITLA is gravely concerned over these determinations -- determinations which threaten to impose serious injury on private General Category licensees. First, the decision to reclassify the 800 MHz General Category for communications carriers (Specialized Mobile Radio) use only deprives ITLA members of a very important spectrum resource. ITLA members make important use of General Category channels in their provision of transportation services to the traveling public.

For example, SuperShuttle International, one of the nation's largest airport ground transportation companies, utilizes General Category channels for dispatch, routing, credit card validation and other communications essential to efficient operations. This firm transports over 10,000 persons each day and typically handles 3,000 messages per hour. Loss of the General Category resource, combined with the freeze imposed on the filing of new applications, hampers the conduct of its business and, ultimately, harms the interests of the traveling public. In particular the Commission's actions prevent SuperShuttle and other ITLA members from expanding their systems in order to meet changing demands or coverage requirements imposed by state or local franchising authorities.

Likewise in the Washington Metropolitan area Transportation General Inc. operates four taxicab companies and one executive sedan service. Transportation General utilizes three 800 MHz General Category pairs to accommodate over 12,000 passengers per day. By virtue of the reclassification and freeze, this ITLA member is unable to proceed with an important expansion of its radio system coverage.

Reclassification of the General Category further constricts the number of channels available to private radio licensees. As a result of this and other reallocation decisions, private radio licensees now have available to them only 299 (or 32 percent) out of the 929 non-public safety 800 MHz channel pairs, compared with 649 channel pairs (70 percent of the total non-public safety frequencies) previously available.

Reclassification of the General Category is particularly perplexing in light of the fact that less than two years ago, in this very proceeding, the Commission stated that, since General Category channels were designated for both private and carrier use, "continuing to allow SMR applications for these channels could result in a scarcity of frequencies for [private] use." Further Notice of Proposed Rule Making in PR Docket No. 93-144, FCC 94-271, released November 4, 1994 at para. 32.

Mr. William F. Caton
June 11, 1996
Page 3

Second, ITLA is equally concerned over the threatened displacement of its members from the lower 80 channels and the General Category. This appears to be part and parcel of the agency's overall plan to auction the General Category, a process which includes conversion of the band to geographic area licensing. However, there is no basis for subjecting ITLA members to forced relocation while exempting incumbent SMR licensees. Moreover, private radio coverage requirements do not follow pre-conceived geographic boundaries such as Economic Areas. Rather, such systems are tailored to the meet the needs of the licensee for coverage of areas which match his or her business requirements.

Furthermore, while the agency has reclassified the General Category for SMR-use and threatens to evict non-SMR licensees, it has failed to address the presence of SMRs in the Industrial/Land Transportation and Business pools via inter-category sharing. In fairness such relocation ought to be required, at least if the agency persists in requiring ITLA members and other private radio licensees to vacate the General Category.

If, despite the foregoing, the FCC should determine to require relocation of non-SMRs, it should at least ensure that incumbents are fully compensated for all costs associated with such relocation and that the replacement facilities be fully comparable. Among other things incumbents should be compensated for all necessary or appropriate equipment, construction, engineering and site costs including, but not limited to, costs associated with any sales or use taxes, increased rental charges, or the like. Licensees should likewise be protected from a piecemeal change-out of only one or another discrete frequency. Furthermore, incumbents should be entitled to a two year voluntary negotiation period followed by a one-year mandatory period. In all events incumbents should be able to have the same coverage with the same quality at the same recurring cost as they have enjoyed with their existing facilities

For the foregoing reasons, ITLA supports requests that the Commission reconsider the designation of the General Category for SMRs only. We also urge the Commission to abandon proposals to convert the Category to geographic area licensing and to require relocation of private licensees from the Category.

With the original of this letter ITLA is also submitting two copies for each of the three dockets referenced above.

Sincerely,



William K. Keane
Counsel to International Taxicab
and Livery Association